



DEPARTMENT OF THE NAVY
NAVAL MEDICAL COMMAND
WASHINGTON, D.C. 20372-5120

IN REPLY REFER TO

NAVMEDCOMINST 12713.2A
MEDCOM-ODD1
14 January 1987

NAVMEDCOM INSTRUCTION 12713.2A

From: Commander, Naval Medical Command

Subj: SEXUAL HARASSMENT POLICY AND REQUIRED TRAINING

Ref: (a) EEOC Final Guidelines, Discrimination Because of Sex:
Sexual Harassment, 29 CFR 1604.11 (NOTAL)
(b) EEOC MD 704 of 23 Sept 80 (NOTAL)
(c) SECNAVINST 5300.26
(d) Assistant Secretary of Defense (M,RA&L) memo of
6 Aug 81; Subj: DOD Policy on Sexual Harassment
(NOTAL)
(e) SECNAVINST 12713.12
(f) OPNAVINST 12720.3 (D)

Encl: (1) Naval Medical Command Policy Statement on Sexual
Harassment
(2) What You Can Do If You Believe that You are A (R)
Victim of Sexual Harassment

1. Purpose. To establish the Naval Medical Command (COMNAVMEDCOM) policy for the prevention of and training for the prevention of sexual harassment.

2. Cancellation. NAVMEDCOMINST 12713.2

3. Scope. This instruction covers appropriated and nonappropriated fund civilian employees.

4. Background. Reference (a) provides new areas of responsibility for Federal agencies to ensure a work environment free from sexual harassment. Reference (b) issued instructions requiring agencies to develop action plans for prevention of sexual harassment in the work force. Reference (c) establishes the Navy's policy on the prevention of sexual harassment. Reference (d) establishes Department of Defense policy on sexual harassment and included the requirement for a monitoring and reporting system to be developed. Reference (e) requires Affirmative Action Program Plans (AAPP) to include a plan for the prevention of sexual harassment. Reference (f) establishes the Chief of Naval Operations policy on sexual harassment and sets forth the requirements for the Department of Navy Training (DONT) for the Prevention of Sexual Harassment. (R)

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5. Policy. No form of sexual harassment will be tolerated. To reduce and eliminate sexual harassment is the responsibility of each manager, supervisor, and employee. Further, responsible officials must ensure that swift and effective corrective action is taken when sexual harassment incidents occur. Enclosure (1) provides the COMNAVMEDCOM policy statement on sexual harassment.

6. Definition. The term "sexual harassment" encompasses a wide range of behaviors or offenses ranging from possible violations of criminal and civil law (such as rape, attempted rape, or extortion of sexual favors), to the uttering of various remarks and pressures which create an intimidating, hostile, or offensive work environment. For purposes of prevention, this instruction speaks to sexual harassment as a single entity.

a. The Equal Employment Opportunity Commission (EEOC) final guidelines (reference (a)) reaffirm that sexual harassment is an unlawful employment practice under Title VII of the Civil Rights Act of 1964, as amended. Therefore, any conduct which violates this law will not be tolerated and violators must be disciplined accordingly. The criteria for determining whether conduct of a sexual nature constitutes sexual harassment under Title VII of the Civil Rights Act of 1964, as amended, are:

(1) Submission to the conduct is made either explicitly or implicitly a term or condition of employment.

(2) Submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting an individual.

(3) The conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

(4) By references (a) and (c), both physical and verbal conduct are within the scope of the EEOC guidelines and official Department of the Navy (DON) policy.

b. Under reference (a), employers are responsible for any sexually harassing conduct when the supervisory chain knows or should have known of the conduct. This strict liability standard

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will be applied on a case by case basis. Therefore, once an employee raises an issue of sexual harassment to a supervisor or another responsible official, these agency representatives are responsible for taking appropriate action. If an employee has not complained, but harassing acts are such that supervisors should have known of their occurrence, the agency may still be liable.

c. Sexual harassment between peers, or harassment of members of the public or others outside of DON by members of the department is covered under references (a) through (c).

d. In addition to bringing instances of sexual harassment to the attention of the appropriate supervisory level, a number of formal remedies summarized in enclosure (2) are available to any employee who believes he or she is a victim of sexual harassment. The formal process selected will vary, depending on the individual circumstances.

7. Responsibilities. COMNAVMEDCOM Headquarters, commanders, commanding officers, and officers in charge must ensure that:

a. The DON policy on sexual harassment is widely publicized.

b. All officers, managers, supervisors, and EEO officials and counselors shall receive training in the methods available to prevent sexual harassment.

c. Civilian employees attend the DON Training for the Prevention of Sexual Harassment for Employees.

d. Course managers are available to conduct the DON Training for the Prevention of Sexual Harassment.

e. Employees have access to confidential and objective advice regarding sexual harassment.

f. Informal and formal channels for filing allegations of sexual harassment are publicized so that individuals understand their rights and responsibilities to report such incidents. Enclosure (2) outlines procedures available to employees.

g. Managers and supervisors require appropriate behavior to assure a positive work environment.

h. Appropriate corrective or disciplinary actions are taken to counter sexual harassment.

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i. DON policy implementation is monitored through reviews and inspections.

R) 8. Required Training

a. Addressees required to prepare an AAPP shall include a supplement to their AAPP following reference (e), outlining the steps to be taken to prevent sexual harassment, to include training. These plans shall be available for review upon request from higher authority.

b. All officers, managers, supervisors, and EEO officials and counselors must complete the DON Training for the Prevention of Sexual Harassment. This is the only approved training for officers, managers, supervisors, and EEO officials and counselors. Addressees shall ensure that Navy policy on sexual harassment is addressed in ongoing supervisory training programs.

c. Addressees must train all employees in the prevention of sexual harassment using the DONT course for nonsupervisory employees. This is the only approved training for nonsupervisory employees.

d. Addressees must maintain a record of certified course managers and trainers of course managers, autovon and commercial phone numbers, date certified, and by whom certified.

e. Addressees must maintain an alphabetical record of officers, managers, supervisors, and employees trained and the date the training is completed.

A) 9. Employee Notification. Addressees must provide a copy of this instruction to all civilian employees.

A) 10. DON Training for the Prevention of Sexual Harassment. For additional guidance on required training, contact MEDCOM-00D1 on Autovon 294-1277 or Commercial (202) 653-1277.

R) 11. Submission of Report. COMNAVMEDCOM Headquarters and activities shall forward a list of certified course managers and trainers and an alphabetical roster of officers, managers, supervisors, and employees attending the DONT for the Prevention of Sexual Harassment to MEDCOM-00D1 by 5 April 1987 and semiannually thereafter by 5 October and 5 April.

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12. Report. The semiannual report Certified Course Managers (R and Trainers List and Roster of DONT Attendees for the Prevention of Sexual Harassment is assigned report control symbol MED 12713-4. This report is approved by the Commander, Naval Medical Command for 3 years only from the date of this instruction.


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NAVAL MEDICAL COMMAND POLICY STATEMENT
ON
SEXUAL HARASSMENT

1. All COMNAVMEDCOM Headquarters and activities are responsible for maintaining high standards of honesty, integrity, impartiality, and conduct to ensure the success of the Naval Medical Command's mission.
2. Sexual harassment violates those standards, undermines interpersonal relationships, and interferes with the effectiveness of the Command.
3. Sexual harassment is defined as (a) influencing, offering to influence, or threatening the career, pay, or job of another person in exchange for sexual favors; or (b) deliberate or repeated offensive comments, gestures, or physical contact of a sexual nature in a work or work-related environment.
4. Sexual harassment is unacceptable behavior. Sexual harassment violates the high standards of conduct expected from all personnel.
5. Individuals who are sexually harassed by supervisors, superiors, co-workers, or peers should report the harassment to the appropriate supervisory level. Supervisors and managers, both military and civilian, must examine and take necessary actions to ensure that sexual harassment is addressed swiftly, fairly, and effectively.
6. Complaints of sexual harassment may be filed with the Civilian Equal Employment Opportunity Office or Inspector General, as appropriate.

Enclosure (1)

WHAT YOU CAN DO
IF YOU BELIEVE YOU ARE
A VICTIM OF SEXUAL HARASSMENT

1. Avenues of Redress. Employees have several formal and informal avenues of redress available to them if they believe they have experienced sexual harassment. They may:

- a. Resolve the matter themselves.
- b. Pursue their allegations through the chain of command.
- c. Choose to formally grieve or complain. (Formal actions may require action within certain time limits. Employees should research applicable regulations by contacting their Equal Employment Opportunity office.)

2. Informal Actions

- a. Advise offenders that their behavior is offensive.
- b. Report incidents to the proper supervisory level. Supervisors, managers, and other responsible officials must take immediate, corrective action to eliminate sexually harassing or potentially sexually harassing behavior. Proper technical or legal guidance must be sought when unusual circumstances arise.

3. Formal Actions. Employees may:

- a. Use the EEO complaint process, including appeal rights to the EEOC and Federal courts.
- b. Use the negotiated grievance procedure if they are a member of a bargaining unit.
- c. Use the Office of Special Council, Merit Systems Protection Board, complaint process for a violation of a prohibited personnel practice if they are appropriated funded employees.
- d. Use internal audit procedures through command or the naval inspector general inspections.

Enclosure (2)